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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,671	09/27/2001	Lisa Denney	1875.1410000	8981

28393 7590 04/09/2007  
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.  
1100 NEW YORK AVE., N.W.  
WASHINGTON, DC 20005

EXAMINER
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CHOWDHURY, SUMAIYA A

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/963,671	<b>Applicant(s)</b> DENNEY ET AL.	
	<b>Examiner</b> Sumaiya A. Chowdhury	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14 and 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Arguments, filed 1/26/07, with respect to the Office Action mailed out on 7/26/06 have been fully considered and are persuasive. The Office Action of 7/26/06 has been withdrawn.

(a) Applicant argues that neither Burroughs or Hebsgaard disclose the claimed limitations as recited in claim 14.

The Examiner has withdrawn the previous Office Action in light of how the claims were read. For the current Office Action, the Examiner has maintained the same references, but has interpreted the references differently.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burroughs in view of Hebsgaard.

As for claim 14, Burroughs teaches a system for associating a plurality of upstream channels with a plurality of downstream channels, all of said upstream channels and downstream channels operating on a communications device, comprising:

(a) a media access controller (Burroughs cable modem is DOCSIS compliant; it is inherent for a DOCSIS modem to have a MAC; [0023]) including:

a filter (receiver 301 – fig. 3) for receiving a bandwidth allocation message (configuration file; during initialization the CMTS sends a configuration file to its respective CM - [0025]. Only the CMTS can assign the upstream channel in which the CM can communicate with the CMTS. Hence, a bandwidth allocation message is transmitted by assigning a particular upstream channel to a CM– [0027].) from a first communication device (first CMTS; 103 – fig. 1) or a second communication device (alternate CMTS),

wherein said filter (301) processes authorization instructions to authenticate said bandwidth allocation message, wherein said filter includes a primary filter (301) for receiving a bandwidth allocation message produced by the first communications device (The receiver of the cable modem receives the configuration file and transmits information on its respective upstream channel accordingly – [0025]); and

a second filter (301) for receiving a bandwidth allocation message from the second communications device (In the event that the first CMTS fails, the alternate CMTS transmits its configuration information which the receiver 301 picks up and transmits accordingly. – [0028], lines 11+),

a parse processor (305 – fig. 3) for formatting said bandwidth allocation message for a designated upstream channel in response to said configuration signal being authenticated – [0043] – [0044];

(b) a bandwidth allocation memory (307 – fig. 3) for selecting and/or storing said bandwidth allocation message from said parse processor – [0044]; and

(c) at least one upstream signal receiver, wherein said bandwidth allocation memory is operable to forward said bandwidth allocation message to the upstream signal receiver that is operable to utilize said bandwidth allocation message to anticipate the arrival of an upstream signal – [0044].

Burroughs discloses wherein each CMTS includes at least one communications port by which it may communicate with another CMTS. However, Burroughs fails to teach the system communicates over a slave interface.

In an analogous art, Hebsgaard discloses such a set up – (Abstract, Fig. 3, p. 4, line 26 – p. 5, line 11).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Burrough's invention to include wherein the system communicates over a slave interface, as taught by Hebsgaard, for the advantage of providing an efficient method of synchronizing various CMTS stations.

The limitations of Claim 18 are also inherent in light of the rejection of Claim 14. As previously discussed, during initialization procedures, bandwidth and upstream channels are allocated. Since any one CMTS can service multiple downstream

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modems, it is inherent the CMTS have some form of memory used to store each modems respective bandwidth allocation and upstream channel. Accordingly, Burroughs et al anticipate each and every limitation of Claim 18.

As for claim 19, Burroughs fails to teach wherein said authorization instructions includes an interface bit capable of being set to accept or reject a request from a source of said bandwidth allocation message.

In an analogous art, Hebsgaard teaches a system which transmits control bits which are used to determine if the time-stamp is valid – (p. 7, lines 35-39).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Burroughs's invention to include a system which transmits control bits which are used to determine if the time-stamp is valid, as taught by Hebsgaard, for the advantage of determining whether the transmitted MAP info is valid.

As to Claim 20, it is inherent the CMTS have some form of memory used to identify which CMTS is available as a backup. Moreover, since the system operates in real-time, whenever a CMTS fails, the parameters of the backup CMTS must be updated to mirror those of the failing CMTS. Accordingly, Burroughs et al anticipate each and every limitation of Claim 20.

As to Claim 21, it is inherent the CMTS and modem have a MAP extractor in order to decode the transmitted MAP. Accordingly, Burroughs et al anticipate each and every limitation of Claim 21.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAC



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